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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,425	10/15/2003	Emanuele Sccomandi	2546-1004	3922
466	7590	03/08/2006	EXAMINER LAUX, JESSICA L	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/684,425	SECOMANDI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jessica Laux	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-7 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>03/31/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Election/Restrictions***

In response to the requirement for restriction, Group II, claims 2-7 have been elected, without traverse, according to the Amendment filed on January 13, 2006. Claim 1 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim.

Further, according to the Amendment filed on January 13, 2006, claim 1 has been cancelled.

### ***Claim Objections***

Claim 5 is objected to because of the following informalities: Claim 5 recites the limitation "the skirts" in line 2. There is insufficient antecedent basis for this limitation in the claim. For the purposes of examination the examiner will interpret claim 5 to depend from claim 3. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Colen (5231815).

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In regards to claim 2: Colen teaches a spacer/centering element for constructing a wall with prefabricated cementitious blocks in the form substantially of a right prism and provided with through lightening holes, which extend vertically in the constructed wall, in which the blocks are arranged offset from row to row (Figure 1), comprising, preferably on its periphery and/or close thereto, feet (Figure 12, element 156) as zonal resting intermediaries for blocks pertaining to two superposed rows and, on one side thereof, first centering means (Figure 12, elements 152 and 154), for engaging a hole in a block and, on the opposite side thereof, second centering means (Figure 12, element 158) offset from the first and arranged to engage a hole in an overlying block.

In regards to claim 3: Colen further teaches a spacer/centering element as in claim 2 above, wherein the first and second centering means are skirts or parts thereof (Figure 12, elements 148 and 150) shaped in accordance with at least part of the profile of the hole of the block in which they are to engage (Col. 7, lines 41-48).

In regards to claim 4: Merriam-Webster Online dictionary defines a pin as: a piece of solid material (as wood or metal) used especially for fastening separate articles together or as a support by which one article may be suspended from another. The feet (156) of Colen are pin shaped according to the above definition as they are used to fasten two blocks together and to support the spacer element within the aperture of the blocks.

In regards to claim 5: The skirts of the above claims have undulating intermediate parts in that element 158 rises up and then down to elements 136/138 and

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then back up again. This enables injected mortar to pass into the interior of the holes through the space above sections 136/138.

In regards to claim 6: The spacer element of the above claims as taught by Colen bounds a central aperture of a cementitious block where elements 152/150 bound two apertures together, where Webster's II Dictionary defines bound as: 1. To limit 2. To border on another area; adjoin.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Colen (5231815) in view of Depka (4091587). Colen teaches a spacer element as in the above claims, but does not teach the element to be moulded of fireproof plastic material. Depka teaches a spacer element for cement block walls (element 30) that is made of plastic and is fire resistant (Col. 4, lines 43-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the element of Colen to be made of fireproof plastic as taught by Depka as this would allow the element to be used in situations requiring fire resistant standards be met.

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**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica Laux whose telephone number is 571-272-8228. The examiner can normally be reached on Monday thru Friday, 8:30am to 4:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JL  
02/28/2006



Naoko Slack  
Primary Examiner